

REMARKS

This communication is in response to the final Office Action mailed on October 27, 2010. With this response, claims 1-11 and 13 are amended. Claims 12 and 14 remain canceled, thus claims 1-11 and 13 are pending. No new matter has been added to the application, and all claims are believed in condition for allowance

Claims 1-11 and 13 are currently rejected in the Office Action under the first paragraph and the second paragraph of 35 U.S.C. § 112. Claims 1, 3, 8, 10, 11 and 13 are currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/01672495 to Yonemoto et al (“Yonemoto”) in view of U.S. Patent No. 7042905 to Johnson. Claims 2, 5, and 6 are currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent Application Publication No. 2004/0114522 to Friesen et al (“Friesen”). Claim 4 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent Application Publication No. 2005/0020240 to Minter et al (“Minter”). Claim 7 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of Johnson and further in view of U.S. Patent No. 6,614,797 to Hippelainen. Claim 9 is currently rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Yonemoto in view of U.S. Patent Application Publication No. 2006/0031749 to Schramm et al (“Scharmm”).

Examiner Philip Wang is thanked for conducting a telephone interview with attorney of record Joshua Kading on December 9, 2010. During the telephone interview the rejections under section 112 were discussed and clarified. In light of the Examiner interview, the claims have been amended for clarity and to further prosecution in the present application. Applicants respectfully request reconsideration and allowance of the pending claims for at least the reasons set forth below.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

Claims 1-11 and 13 are currently rejected in the Office Action under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement. In particular, the Office Action contends that the specification does not disclose “distributing media data items and control information to different areas according to distribution properties.” (See Office Action, pages 2-3.) In light of the amendments to claims 1 and 13, applicants respectfully submit that claims 1-11 and 13 satisfy the written description requirement of section 112, first paragraph.

Claim 1 has been amended and recites “a media distribution setting section configured to associate the first media data item and the first control information with a first distribution priority and associate the second media data item and the second control information with a second distribution priority,” and “a distribution section configured to distribute the first media data item and the first control information using a first bearer channel associated with the first distribution priority and distribute the second media item and the second control information using a second bearer channel associated with the second distribution priority.”

Similarly, claim 13 has been amended and recites “associating the first media data item and the first control information with a first distribution priority and associating the second media data item and the second control information with a second distribution priority,” and “distributing the first media data item and the first control information using a first bearer channel associated with the first distribution priority and distributing the second media item and the second control information using a second bearer channel associated with the second distribution priority.”

Amended claims 1 and 13 may find support, for example, at paragraph [0053] and [0067]-[0071] and Figures 5 and 7 of the specification in the published application (U.S. Patent Application Publication No.2006/0031513A1). Additionally, by virtue of their dependency from claim 1, claims 2-11 also find adequate support in the specification.

Accordingly, the subject matter recited in claims 1-11 and 13 is described in the specification. Therefore, applicants respectfully request withdrawal of the first paragraph of 35 U.S.C. § 112 rejections of claims 1-11 and 13.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claims 1-11 and 13 are currently rejected in the Office Action under the second paragraph of 35 U.S.C. § 112 as failing to provide sufficient antecedent basis for “a plurality of receiving area over different transmission distance according to priorities.” (See Office Action, pages 3-4). In this response, claims 1 and 13 have been amended and satisfy the second paragraph of section 112.

Claims 1 and 13 have been amended to recite “the first bearer channel covering a first receiving area associated with the base station and the second bearer channel covering a second receiving area associated with the base station.” Also, claims 2-11 depend from claim 1, and thus recite all of the same features recited in claim 1. Accordingly, applicants respectfully submit that claims 1-11, and 13 satisfy section 112, second paragraph, and respectfully request that the rejections under 35 U.S.C. § 112, second paragraph be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 1-11 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Yonemoto, Johnson, Friesen, Minter, Hippelainen, and Scheramm as summarized above. A *prima facie* case of obviousness may be established under section 103 if “all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007); M.P.E.P. § 2143.A. Because claims 1-11 and 13 recite combinations of features neither described nor suggested in Yonemoto, either alone or when combined with Johnson, Friesen, Minter, Hippelainen and Scheramm, a *prima facie* case of obviousness has not been made.

Claims 1-11

As amended, claim 1 recites, among other things, “a memory configured to store a first media data item with a first classification, a second media data item with a second

classification that is different from the first classification, first control information associated with the first media data item, and second control information associated with the first media item and the second media data item.”

In the Office Action, it is asserted that Yonemoto at Figures 1 and 8, and paragraph [0164] discloses “a memory for storing a plurality of media data items and their respective control information.” (Office Action, page 5.) However, Figures 1 and 8, and paragraph [0164] of Yonemoto describes that “The “SMIL” includes the reproduction information such as “timing information” for use in performing time synchronization processing among the plurality of the broad cast media, and “layout information” for changing the display of the broadcast media on the display unit of the communication terminal.” ([0164] of Yonemoto), but not “a memory configured to store a first media data item with a first classification, a second media data item with a second classification that is different from the first classification, first control information associated with the first media data item, and second control information associated with the first media item and the second media data item.”

For at least these reasons, Yonemoto fails to disclose “a memory configured to store...first control information associated with the first media data item, and second control information associated with the first media item and the second media data item,” as recited in amended claim 1.

Furthermore, none of Johnson, Friesen, Minter, Hippelainen and Scheramm disclose “a memory configured to store a first media data item with a first classification, a second media data item with a second classification that is different from the first classification, first control information associated with the first media data item, and second control information associated with the first media item and the second media data item.” For example, Johnson describes “A base station provides communication service to the customer by; ...2) in response to receiving the request, dynamically configuring a media access control layer in a wireless transmission link for the requested communication service;...(Abstract)” but not “a memory configured to store a first media data item with a first classification, a second media data item with a second classification that is different from the first classification, first control

information associated with the first media data item, and second control information associated with the first media item and the second media data item.”

Since Yonemoto, either alone or when combined with Johnson, Friesen, Minter, Hippelainen and Scheramm fails to describe each element recited in claim 1, a *prima facie* case of obviousness has not been made. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claim 1 and allowance of the claim.

Claims 2-11 depend from claim 1, and thus, each and every element recited in claim 1 is also recited in dependent claims 2-11. As such, for at least the reasons discussed above with respect to claim 1, Yonemoto, either alone or when combined with Johnson, Friesen, Minter, Hippelainen and Scheramm, fails to describe each and every element of claims 2-11. Therefore, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of claims 2-11.

Claim 13

Similar to claim 1, clarifying amendments have been made to claim 13, which recites “storing in a memory a first media data item with a first classification, a second media data item with a second classification that is different from the first classification, first control information associated with the first media data item, and second control information associated with the first media item and the second media data item.” As discussed above with regard to claim 1, Yonemoto does not disclose a memory that stores “first control information associated with the first media data item, and second control information associated with the first media item and the second media data item.”

For at least these reasons, Yonemoto, either alone or when combined with Johnson, Friesen, Minter, Hippelainen and Scheramm, fails to disclose every element recited in amended claim 13. Thus, applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claim 13.

Conclusion

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. A number of clarifying amendments have also been made to the above claim set. Applicants do not acquiesce to each of the Examiner's rejections and to each of the Examiner's assertions regarding what the cited references show or describe, even if not expressly discussed. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

In light of the above amendments and remarks, applicants respectfully submit that all pending claims are allowable. Applicants, therefore, respectfully request that the Examiner reconsiders this application and timely allows all pending claims. If a relevant description in any of the cited references has been overlooked, the Examiner is requested to point this out specifically. The Examiner is encouraged to contact the undersigned attorney to discuss any distinctions between the claims and the cited references not understood or to discuss issues that may advance prosecution toward allowance.

The Examiner is also encouraged to contact the undersigned attorney if any informalities are noted in the claims. No fee for additional claims is due by way of this Amendment. The Director is authorized to charge additional fees due by way of this Amendment only, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
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